

2 C.F.R. Updates

Release Date: Dec 21, 2020

Overview

The Office of Management and Budget (OMB) recently made revisions to 2 C.F.R. Parts 25 (Universal Identifier & SAM), 170 (Reporting Compensation), 183 (Never Contract with the Enemy), and 200 (Uniform Rules), some of which were substantive in nature.

Summary of Changes to 2 C.F.R.

A summary of the 5 most substantial revisions to 2 C.F.R. is provided below:

- Performance, evaluation, and risk: OMB's revisions significantly emphasize measuring performance, evaluating effectiveness of programs and awards, and adjusting requirements based on the non-Federal entity's risk. This revision reflects the foundational shift outlined in the President's Management Agenda (PMA) to set the stage for enhanced result-oriented accountability for grants.
- Closeout: OMB adjusted the closeout requirements to provide more time for recipients to submit closeout reports, as well as provided a formal process by which Federal awarding agencies can proceed with closing out awards even when the recipient does not provide all required reports.
- Procurement : In addition to implementing a new statutory prohibition regarding covered telecommunications equipment and services, OMB also revised the Federal procurement under grants standards to provide greater flexibility regarding the micro-purchase threshold, incorporate the increased micro-purchase and simplified acquisition thresholds, add a domestic preferences provision, and require states to follow the socioeconomic contracting steps.
- Termination: OMB removed the "for cause" termination provision but added other termination provisions providing greater flexibility to Federal awarding agencies to terminate awards, and now requires Federal awarding agencies to provide recipients with clear and unambiguous information on the termination



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provisions.

- **Consistent terminology:** OMB reorganized the definitions of 2 C.F.R. Part 200 into a single section, modified several of the definitions in Parts 25 and 170 to now cross-reference the definitions for the same terms in Part 200, clarified where certain terms have meanings specific to a particular Part, and replaced certain terms (e.g., “obligation” replaced by either “financial obligation” or “responsibility” for different contexts) to clarify meanings.

A summary of additional revision topics is described below:

- **Budget period, renewal award, and period of performance:** OMB added the concepts of budget period and renewal award to 2 C.F.R. Part 200. OMB indicated that a period of performance can have multiple budget periods and modified language to say that costs must be incurred during the applicable budget period (as opposed to during the period of performance) in order to be allowable. OMB added that renewal awards have a distinct period of performance.
- **SAM registration:** OMB now requires recipients to provide information on their immediate and highest-level owners, subsidiaries, and predecessors when registering in SAM, and Federal awarding agencies are now also required to consider this information as part of the pre-award risk review process. Due to the exigent or emergency circumstances brought to light during the COVID-19 pandemic, OMB built in an exception to SAM registration. This exception allows agencies to waive the requirement to register in SAM when there are exigent circumstances that would prevent an applicant from registering prior to the submission of an application. Federal awarding agencies are responsible for the determination on whether such exigent circumstances would prevent an applicant from registering in SAM. Agencies are no longer required to request a waiver from OMB in such instances.
- **Indirect costs (effective 8/13/20):** OMB relaxed the requirements for use of the de minimis rate, and clarified requirements for pass-through entities regarding negotiating a subrecipient’s indirect cost rate.
- **Assistance Listings:** The Catalog of Federal Domestic Assistance (CFDA) was recently replaced by the Assistance Listings, and OMB incorporated this update throughout the regulations and tied the required Assistance Listings updates to program planning and design.



- Eliminated references to non-authoritative guidance: OMB implemented Executive Order 13892, Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication (Oct. 9, 2019), which limits agencies from imposing legally binding requirements except through public notice and comment, or as incorporated into the terms and conditions of a Federal award.

Effective Dates

August 13, 2020

- SAM Registration
- Prohibition on certain telecommunications equipment and services
- Termination
- Indirect Costs

November 12, 2020

- Applies to most changes
- Awards/disasters declared
- Single audits of fiscal years

Note: This does not have the force and effect of law, except as authorized by law or as incorporated into a contract or federal financial assistance award.

